IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1192 OF 1996

Smt. Radhika wife of Bijay
Prakash Pandey & Ors. ..Appellants

versus

Vashu Udharam Rohra & Anr. ..Respondents

Mr. V. N. Tayade for the Appellants.
None for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 25TH OCTOBER,2005

ORAL ORDER :

1. Heard Advocate for the appellant. Respondents served. Nobody is present for them.

2. Appellants are the original claimants who have filed claim petition claiming compensation at Rs.10 lacs. The deceased was husband of appellant No.1. He was 33 years of the age. He was a businessman having 2-3 different businesses. MACT, Thane awarded Rs.5,40,000/- only, with interest,

and, therefore, this Appeal for enhancement.

3. While awarding the aforesaid compensation, the Tribunal took Rs.3,000/- as the monthly income of the deceased, after deducting 1/3rd amount towards the expenses of the family, net Rs.2,000/- was taken to be the income. Multiplier of 20 was adopted and the compensation of Rs.4,80,000/- was arrived at.

4. Counsel for the appellant tried to contend that there was evidence on record to show that the deceased was earning more than Rs.4,000/- per month and therefore according to him Rs.3,000/- should have been taken as a monthly income after deducting the expenses of the family. This submission of the appellant cannot be accepted because the income tax returns filed by the deceased during his lifetime for the year 1988-89 was produced on record. As per that return, the annual income of the deceased in that year is Rs.17,892/-, therefore, monthly income comes to Rs.1,500/- . Even then the Tribunal has by giving latitude and also taking into consideration 2-3 businesses, taken Rs.3,000/- as monthly income. The approach of the Tribunal cannot be assailed on

any count. Therefore, there cannot be any enhancement of the amount of compensation under this Head.

5. However, so far as the pain and suffering for two months which the deceased has to undergo is concerned, meagre compensation has been awarded by the Tribunal that is not proper. That amount is required to be enhanced to total Rs.25,000/-. Similarly, claimants who are wife and children of the deceased and who have lost Karta of the family at such young age, the Tribunal awarded Rs.10,000/- towards consortium, that is not an adequate compensation, that should have been awarded total at Rs.25,000/-. Therefore the appeal is required to be partly allowed. Hence, Order:

ORDER

. Appeal is partly allowed by enhancing compensation of Rs.35,000/-. The claimants will be entitled to Rs.35,000/- more than what has been awarded by the Tribunal from the Respondents along with interest and costs of this Appeal.

25.10.2005 (D.G. DESHPANDE, J.)